

House File 2328

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1 3 AN ACT
1 4 RELATING TO CHILD PROTECTION CONFIDENTIALITY REQUIREMENTS
1 5 INVOLVING THE DEPARTMENT OF HUMAN SERVICES.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 9 Section 1. Section 217.30, subsection 4, Code 2003, is
1 10 amended by adding the following new paragraph:
1 11 NEW PARAGRAPH. e. Information described in subsection 1,
1 12 paragraphs "a", "b", and "c", is subject to disclosure in
1 13 accordance with section 235A.15, subsection 10.
1 14 Sec. 2. Section 235A.12, Code 2003, is amended to read as
1 15 follows:
1 16 235A.12 LEGISLATIVE FINDINGS AND PURPOSES.
1 17 1. The general assembly finds and declares that a central
1 18 registry is required to provide a single source for the ~~state-~~
~~1 19 wide statewide~~ collection, maintenance, and dissemination of
1 20 child abuse information. ~~Such a~~ The existence of the central
1 21 registry is imperative for increased effectiveness in dealing
1 22 with the problem of child abuse. The general assembly also
1 23 finds that vigorous protection of rights of individual privacy
1 24 is an indispensable element of a fair and effective system of
1 25 collecting, maintaining and disseminating child abuse
1 26 information.
1 27 2. The purposes of this section and sections 235A.13 to
~~1 28 235A.23 through 235A.24~~ are to facilitate the identification
1 29 of victims or potential victims of child abuse by making
1 30 available a single, statewide source of child abuse data; to
1 31 facilitate research on child abuse by making available a
1 32 single, statewide source of child abuse data; and to provide
1 33 maximum safeguards against the unwarranted invasions of
1 34 privacy which such a registry might otherwise entail.
1 35 Sec. 3. Section 235A.13, subsection 9, Code Supplement
2 1 2003, is amended to read as follows:
2 2 9. "Near fatality" means ~~a bodily an injury which involves~~
~~2 3 substantial risk of death, protracted and obvious~~
~~2 4 disfigurement, or protracted loss or impairment of the~~
~~2 5 function of a bodily member, organ, or mental faculty and~~
~~2 6 includes a serious bodily injury as described in section~~
~~2 7 702.18 to a child that, as certified by a physician, placed~~
~~2 8 the child in serious or critical condition.~~
2 9 Sec. 4. Section 235A.15, subsections 7 and 8, Code
2 10 Supplement 2003, are amended to read as follows:
2 11 7. ~~Upon the request of a person listed in this subsection,~~
~~2 12 child abuse information relating to a specific case of child~~
~~2 13 abuse involving a fatality or near fatality to a child and~~
~~2 14 reported to the department shall be disclosed to that person~~
~~2 15 by the director of human services. The purpose of the~~
~~2 16 disclosure is to provide for oversight of the department and~~
~~2 17 others involved with the state's child protection system in~~
~~2 18 order to improve the system. After completing a review of the~~
~~2 19 child abuse information received, an authorized requester may~~
~~2 20 issue a report to the governor regarding the specific case of~~
~~2 21 child abuse. The following persons are authorized to make a~~
~~2 22 request and receive child abuse information under this section~~
~~2 23 relating to a specific case of child abuse involving a~~
~~2 24 fatality or near fatality to a child:~~
2 25 a. ~~The governor or the governor's designee.~~
2 26 b. ~~The member of the senate or employee of the general~~
~~2 27 assembly designated by the majority leader or minority leader~~
~~2 28 of the senate.~~
2 29 c. ~~The member of the house of representatives or employee~~
~~2 30 of the general assembly designated by the speaker or minority~~
~~2 31 leader of the house of representatives.~~
2 32 7. If the director of human services receives a written
2 33 request for information regarding a specific case of child
2 34 abuse involving a fatality or near fatality to a child from
2 35 the majority or minority leader of the senate or the speaker
3 1 or the minority leader of the house of representatives, the
3 2 director or the director's designee shall arrange for a
3 3 confidential meeting with the requestor or the requestor's
3 4 designee. In the confidential meeting the director or the
3 5 director's designee shall share all pertinent information

3 6 concerning the case, including but not limited to child abuse
3 7 information. Any written document distributed by the director
3 8 or the director's designee at the confidential meeting shall
3 9 not be removed from the meeting and a participant in the
3 10 meeting shall be subject to the restriction on redissemination
3 11 of confidential information applicable to a person under
3 12 section 235A.17, subsection 3, for confidential information
3 13 disclosed to the participant at the meeting. A participant in
3 14 the meeting may issue a report to the governor or make general
3 15 public statements concerning the department's handling of the
3 16 case of child abuse.

3 17 8. Upon the request of the governor, the department shall
3 18 disclose child abuse information to the governor or the
3 19 governor's designee relating to a specific case of child abuse
3 20 reported to the department.

3 21 Sec. 5. Section 235A.15, subsection 9, unnumbered
3 22 paragraph 1, Code Supplement 2003, is amended to read as
3 23 follows:

3 24 If, apart from a request made pursuant to subsection 7 or
3 25 8, the department receives from a member of the public a
3 26 request for ~~child abuse~~ information relating to a case of
3 27 ~~founded child abuse~~ involving a fatality or near fatality to a
3 28 child, the response to the request shall be made in accordance
3 29 with this subsection and subsections 10 and 11. If the
3 30 request is received before or during performance of an
3 31 assessment of the case in accordance with section 232.71B, the
3 32 director of human services or the director's designee shall
3 33 initially disclose whether or not the assessment will be or is
3 34 being performed. Otherwise, within five business days of
3 35 receiving the request or completing the assessment, whichever
4 1 is later, the director of human services or the director's
4 2 designee shall consult with the county attorney responsible
4 3 for prosecution of any alleged perpetrator of the fatality or
4 4 near fatality and shall disclose ~~child abuse~~ information,
4 5 including but not limited to child abuse information, relating
4 6 to the case and the child in accordance with this subsection.
4 7 ~~The director or the director's designee shall release all~~
4 8 ~~child abuse information associated with the case and the~~
4 9 ~~child, except for the following:~~

4 10 Sec. 6. Section 235A.15, subsection 9, paragraph c, Code
4 11 Supplement 2003, is amended by striking the paragraph.

4 12 Sec. 7. Section 235A.15, Code Supplement 2003, is amended
4 13 by adding the following new subsections:

4 14 NEW SUBSECTION. 10. The information released by the
4 15 director of human services or the director's designee pursuant
4 16 to a request made under subsection 9 relating to a case of
4 17 founded child abuse involving a fatality or near fatality to a
4 18 child shall be a summary of all of the following, unless such
4 19 information is excepted from disclosure under subsection 9:

4 20 a. Any relevant child abuse report data concerning the
4 21 child or the child's family and the department's response and
4 22 findings concerning the report data, including but not limited
4 23 to assessment and disposition data.

4 24 b. Information, that would otherwise be confidential under
4 25 section 217.30, as to whether or not the child or a member of
4 26 the child's family was utilizing social services provided by
4 27 the department at the time of the child fatality or near
4 28 fatality or within the five-year period preceding the fatality
4 29 or near fatality.

4 30 c. Any recommendations made by the department to the
4 31 county attorney or the juvenile court.

4 32 d. If applicable, an evaluation of the department's
4 33 responses in the case.

4 34 NEW SUBSECTION. 11. a. If a person who made a request
4 35 for information under subsection 9 does not believe the
5 1 department has substantially complied with the request, the
5 2 person may apply to the juvenile court under section 235A.24
5 3 for an order for disclosure of additional information.

5 4 b. If release of social services information in addition
5 5 to that released under subsection 10, paragraph "b", is
5 6 believed to be in the public's interest and right to know, the
5 7 director of human services or the director's designee may
5 8 apply to the court under section 235A.24 requesting a review
5 9 of the information proposed for release and an order
5 10 authorizing release of the information. A release of
5 11 information that would otherwise be confidential under section
5 12 217.30 concerning social services provided to the child or the
5 13 child's family shall not include information concerning
5 14 financial or medical assistance provided to the child or the
5 15 child's family.

5 16 NEW SUBSECTION. 12. If an individual who is the subject

5 17 of a child abuse report listed in subsection 2, paragraph "a",
5 18 or another party involved in a child abuse assessment under
5 19 section 232.71B releases in a public forum or to the media
5 20 information concerning a case of child abuse including but not
5 21 limited to child abuse information which would otherwise be
5 22 confidential, the director of human services, or the
5 23 director's designee, may respond with relevant information
5 24 concerning the case of child abuse that was the subject of the
5 25 release. Prior to releasing the response, the director or the
5 26 director's designee shall consult with the child's parent or
5 27 guardian, or the child's guardian ad litem, and apply to the
5 28 court under section 235A.24 requesting a review of the
5 29 information proposed for release and an order authorizing
5 30 release of the information.

5 31 Sec. 8. Section 235A.24, Code 2003, is amended to read as
5 32 follows:

5 33 235A.24 ORDER FOR DISCLOSURE OR RELEASE OF CHILD ABUSE
5 34 INFORMATION.

5 35 1. a. A person whose If a person's request for child
6 1 abuse information relating to a case of founded child abuse
6 2 under section 235A.15, subsection 9, is denied or such person
6 3 does not believe the department has substantially complied
6 4 with the request and seeks additional information, the person
6 5 may apply to the juvenile court for an order compelling
6 6 disclosure of the information.
6 7 b. The director of human services or the director's
6 8 designee may apply, if the conditions under section 235A.15,
6 9 subsection 11 or 12, are met, to the court requesting a review
6 10 of confidential information proposed for release and an order
6 11 authorizing the release of information. A release of
6 12 information that would otherwise be confidential under section
6 13 217.30 concerning social services provided to the child or the
6 14 child's family shall not include information concerning
6 15 financial or medical assistance provided to the child or the
6 16 child's family.

6 17 2. The application shall state in reasonable detail the
6 18 factors in support of the application. The juvenile court
6 19 shall have jurisdiction to issue the order. A hearing shall
6 20 be set immediately upon filing of an application under this
6 21 section and subsequent proceedings shall be accorded priority
6 22 by other courts.

6 23 3. In considering the application, the court shall weigh
6 24 the public's interest and right to know the information
6 25 against the privacy rights of the victim of the child abuse
6 26 and other individuals who may be affected by the release of
6 27 the information relating to the case of child abuse.

6 28 4. After the court has reviewed the child abuse
6 29 information relating to the case in camera, unless the court
6 30 finds that a restriction listed in section 235A.15, subsection
6 31 9, is applicable, the court shall may issue an order
6 32 compelling disclosure or authorizing release of the child
6 33 abuse information relating to the case.

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7 3 CHRISTOPHER C. RANTS
7 4 Speaker of the House

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7 7 JEFFREY M. LAMBERTI
7 8 President of the Senate
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7 10 I hereby certify that this bill originated in the House and
7 11 is known as House File 2328, Eightieth General Assembly.

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7 15 MARGARET THOMSON
7 16 Chief Clerk of the House

7 17 Approved _____, 2004

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7 21 THOMAS J. VILSACK
7 22 Governor